1 2 3 4	Stuart M. Richter (SBN 126231) Andrew J. Demko (SBN 247320) KATTEN MUCHIN ROSENMAN LL 2029 Century Park East, Suite 2600 Los Angeles, CA 90067-3012 Telephone: 310.788.4400 Facsimile: 310.788.4471	JP	
5	Attorneys for Defendant Cree, Inc.		
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8	UNITED STATES	DISTRICT COURT	
9	NORTHERN DISTRI	ICT OF CALIFORNIA	
10	OAKLANI	D DIVISION	
11	JEFF YOUNG, individually and on )	Case No. 4:17-cv-06252-YGR	
12	behalf of all others similarly situated,	Hon. Yvonne-Gonzalez Rogers	
13	Plaintiff,	CREE, INC.'S SEPARATE	ED
14	V. )	STATEMENT OF UNDISPUT MATERIAL FACTS IN SUPPO OF LTS MOTION FOR SUMM	ORT
15	CREE, INC., Defendants.	OF ITS MOTION FOR SUMM JUDGMENT ON PLAINTIFF' INDIVIDUAL CLAIMS	
16	}	Complaint Filed: October 27, 201	17
17	}	Date: September 7, 2021 Time: 2:00 PM PDT	
18	}	Time: 2:00 PM PDT Place: Courtroom 1 – 4 <sup>th</sup> Floo	or
19	)		
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CREE, INC.'S SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS

Individual Claims.

**Supporting Separate Statement** 

Pursuant to Rule 56(c)(1) of the Federal Rules of Civil Procedure and Civil

Local Rule 56-2(a) of the United States District Court, Northern District of

California, Defendant Cree, Inc. submits this Separate Statement of Undisputed

Material Facts in support of its Motion for Summary Judgment on Plaintiff's

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Issue No. Moving Party's Undisputed **Opposing Party's** Material Facts and Supporting Response and **Evidence Supporting Evidence** Fact 1. Plaintiff could not Issue 1 (Plaintiff cannot remember anything specifically èstablish about purchasing the Bulbs. reliance Richter Decl., Exh. A [Young required for his Depo.] at 106:3-107:15. fraud and consumer protection claims) Issue 1 Fact 2. Plaintiff could not remember specifically whether he had read the terms of the limited warranty printed on the box, the fact that the warranty was for ten years, a label statement comparing the Bulbs' energy use to that of an incandescent, the Lighting Facts label, or a label statement on estimated energy savings.

Richter Decl., Exh. A [Young Depo.] at 106:3-107:15; 110:12-18.

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See also Doc. No. 76, p. 5 striking Plaintiff's attempt to reverse this testimony.	
Fact 3. The only packaging representation Plaintiff definitively remembered was that the Bulbs were dimmable.	
Richter Decl., Exh. A [Young Depo.] at 99:1-5; 108:13-16.	
Fact 4. Plaintiff could not recall what, if any, statement on Cree's package persuaded him to buy the	

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Issue 1

Issue 1

1 2	Issue No.	Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
<ul><li>3</li><li>4</li><li>5</li><li>6</li></ul>	Issue 1	Richter Decl., Exh. A [Young Depo.] at 100:23-101:12.  Fact 5. Plaintiff could not remember why he decided to purchase Cree bulbs as opposed to a competitor's.	
7 8 9	Issue 1	Richter Decl., Exh. A [Young Depo.] at 102:18-103:21. Fact 6. Plaintiff never visited Cree's website before buying Cree Bulbs.	
10   11   12   13	Issue 1	Richter Decl., Exh. A [Young Depo.] at 119:3-12. Fact 7. Plaintiff could not remember any advertisement or representation from television or the web that was specific to Cree.	
14   15   16	Issue 1	Richter Decl., Exh. A [Young Depo.] at 93:10-94:8.  Fact 8. Plaintiff never saw the television or internet ads specifically described in the Amended Complaint.	
17 18 19	Issue 1	Richter Decl., Exh. A [Young Depo.] at 115:1-118:1.  Fact 9. Plaintiff did not recognize, and could not remember ever seeing before, the actor hired as Cree's spokesperson.	
20   21   22   23	Issue 1	Richter Decl., Exh. A [Young Depo.] at 116:6-21. Fact 10. Plaintiff does not trust product advertising. Richter Decl., Exh. A [Young	
24   25   26   27	Issue 2 (Plaintiff's claims based on Cree's limited warranty fail because Plaintiff did not	Depo.] at 30:22-31:23.  Fact 1. Cree's limited warranty requires that a consumer return the bulb to Cree with proof of purchase, receipt, and the consumer's contact information.	

1	Issue No.	Moving Party's Undisputed	Opposing Party's
2		Material Facts and Supporting Evidence	Response and Supporting Evidence
3 4	comply with Cree's warranty terms)	Richter Decl., Exh. C [Bulb Limited Warranty].	
5	Issue 2	Fact 2. In capital letters, Cree's	
6		warranty limits a consumer's remedies to bulb replacement or refund and excludes incidental and	
7		consequential damages.	
8		Richter Decl., Exh. C [Bulb Limited Warranty].	
9	Issue 2	Fact 3. Plaintiff did not attempt to return the Bulbs and failed to	
10		comply with the terms of Cree's warranty.	
11		Richter Decl., Exh. A [Young	
12	Issue 2	Depo.] at 89:6-90:6; 91:24-92:5. Fact 4. Plaintiff no longer has two	
13 14	155UC 2	of the Bulbs, his receipt, or his proofs of purchase.	
15		Richter Decl., Exh. A [Young Depo.] at 23:4-19, 27:22-28:13, 24:1-14.	
16	Issue 3 (Cree did not	Fact 1. Cree's limited warranty requires that a consumer return the	
17	breach any	bulb to Cree with proof of purchase, receipt, and the consumer's contact	
18	warranties-by- representation	information.	
19	or its express limited	Richter Decl., Exh. C [Bulb Limited	
20	warranty)	Warranty].	
21	Issue 3	Fact 2. In capital letters, Cree's warranty limits a consumer's remedies to bulb replacement or	
22		refund and excludes incidental and consequential damages.	
24		Richter Decl., Exh. C [Bulb Limited Warranty].	
25	Issue 3	Fact 3. Plaintiff did not attempt to return the Bulbs and failed to	
26		comply with the terms of Cree's warranty.	
27		warranty.	

1	Issue No.	Moving Party's Undisputed Material Facts and Supporting	Opposing Party's Response and
2		Evidence	Supporting Evidence
3		Richter Decl., Exh. A [Young Depo.] at 89:6-90:6; 91:24-92:5.	
4	Issue 3	Fact 4. Plaintiff no longer has two of the Bulbs, his receipt, or his	
5		proofs of purchase.	
6 7		Richter Decl., Exh. A [Young Depo.] at 23:4-19, 27:22-28:13,	
8	Issue 4 (Exception to	Pact 1. Plaintiff could not remember anything specifically	
9	California's privity	about purchasing the Bulbs.	
10	requirement for warranty claims no longer	Richter Decl., Exh. A [Young Depo.] at 106:3-107:15.	
11	applies to Plaintiff		
12	because he did not rely on any		
13 14	advertising or label statements)		
15	Issue 4	Fact 2. Plaintiff could not	
16		remember specifically whether he had read the terms of the limited warranty printed on the box, the fact	
17		that the warranty was for ten years, a label statement comparing the	
18		Bulbs' energy use to that of an incandescent, the Lighting Facts	
19		label, or a label statement on estimated energy savings.	
20		Richter Decl., Exh. A [Young	
21		Depo.] at 106:3-107:15; 110:12-18.  See also Doc. No. 76, p. 5 striking	
22	Ŧ	Plaintiff's attempt to reverse this testimony.	
23   24	Issue 4	Fact 3. The only packaging representation Plaintiff definitively	
25		remembered was that the Bulbs were dimmable.	
26		Richter Decl., Exh. A [Young Depo.] at 99:1-5; 108:13-16.	
27	Issue 4	Fact 4. Plaintiff could not recall what, if any, statement on Cree's	

1 2	Issue No.	Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
3		package persuaded him to buy the Bulbs.	
5		Richter Decl., Exh. A [Young Depo.] at 100:23-101:12.	
6 7	Issue 4	Fact 5. Plaintiff could not remember why he decided to purchase Cree bulbs as opposed to a competitor's.	
8		Richter Decl., Exh. A [Young Depo.] at 102:18-103:21. Fact 6. Plaintiff never visited	
9	Issue 4	Fact 6. Plaintiff never visited Cree's website before buying Cree Bulbs.	
11		Richter Decl., Exh. A [Young Depo.] at 119:3-12.	
12	Issue 4	Fact 7. Plaintiff could not remember any advertisement or representation from television or the web that was specific to Cree.	
14   15		Richter Decl., Exh. A [Young Depo.] at 93:10-94:8.	
16 17	Issue 4	Fact 8. Plaintiff never saw the television or internet ads specifically described in the Amended Complaint.	
18		Richter Decl., Exh. A [Young Depo.] at 115:1-118:1.	
19 20	Issue 4	Fact 9. Plaintiff did not recognize, and could not remember ever seeing	
21		before, the actor hired as Cree's spokesperson.	
22	Issue 4	Richter Decl., Exh. A [Young Depo.] at 116:6-21. Fact 10. Plaintiff does not trust	
23	155UC T	product advertising.	
24   25	Issue 5	Richter Decl., Exh. A [Young Depo.] at 30:22-31:23. Fact 1. Plaintiff could not	
26	(Plaintiff cannot prevail on his unjust	remember anything specifically about purchasing the Bulbs.	
27	enrichment		

1 2	Issue No.	Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
3	claim because	Richter Decl., Exh. A [Young	
4	representation is actionable)	Depo.] at 106:3-107:15.	
5	Issue 5	Fact 2. Plaintiff could not remember specifically whether he	
7		had read the terms of the limited warranty printed on the box, the fact that the warranty was for ten years,	
8		a label statement comparing the Bulbs' energy use to that of an	
9 10		incandescent, the Lighting Facts label, or a label statement on estimated energy savings.	
11		Richter Decl., Exh. A [Young Depo.] at 106:3-107:15; 110:12-18.	
12		See also Doc. No. 76, p. 5 striking Plaintiff's attempt to reverse this	
13 14	Issue 5	Fact 3. The only packaging representation Plaintiff definitively	
15		remembered was that the Bulbs were dimmable.	
16	_	Richter Decl., Exh. A [Young Depo.] at 99:1-5; 108:13-16.	
17 18	Issue 5	Fact 4. Plaintiff could not recall what, if any, statement on Cree's package persuaded him to buy the Bulbs.	
19 20		Richter Decl., Exh. A [Young Depo.] at 100:23-101:12.	
21	Issue 5	Fact 5. Plaintiff could not remember why he decided to	
22		purchase Cree bulbs as opposed to a competitor's.	
23		Richter Decl., Exh. A [Young Depo.] at 102:18-103:21. Fact 6. Plaintiff never visited	
24 25	Issue 5	Fact 6. Plaintiff never visited Cree's website before buying Cree Bulbs.	
26 27		Richter Decl., Exh. A [Young Depo.] at 119:3-12.	

Issue No.	Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Issue 5	Fact 7. Plaintiff could not remember any advertisement or representation from television or the web that was specific to Cree.	
	Richter Decl., Exh. A [Young Depo.] at 93:10-94:8.	
Issue 5	Fact 8. Plaintiff never saw the television or internet ads specifically described in the Amended Complaint.	
	Richter Decl., Exh. A [Young Depo.] at 115:1-118:1.	
Issue 5	Fact 9. Plaintiff did not recognize, and could not remember ever seeing before, the actor hired as Cree's spokesperson.	
	Richter Decl., Exh. A [Young Depo.] at 116:6-21.	
Issue 5	Fact 10. Plaintiff does not trust product advertising.	
	Richter Decl., Exh. A [Young Depo.] at 30:22-31:23.	
I attest that the e asserted.	vidence cited herein fairly and accurately	y supports the facts as
Dated: June 25	, 2021 Respectfully submi	tted,
Dated: June 25	,	tted, IN ROSENMAN LI

By: /s/ Stuart M. Richter
Stuart M. Richter
Andrew J. Demko
Attorneys for Defendant Cree, Inc.

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